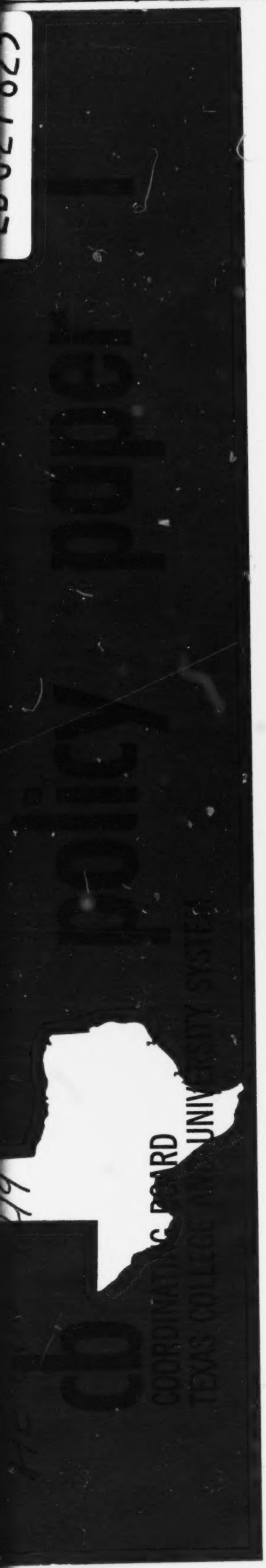
DOCUMENT RESUME

ED 027 823 HE 000 449

Academic Freedom, Tenure, and Responsibility for Faculty Members in Texas Public Colleges and Universities. Adopted: October 16, 1967.

Texas Coll. and Univ. System, Austin. Coordinating Board.
Pub Date Mar 68
Note-8p.
EDRS Price MF-$0.25 HC-$0.50
Descriptors-Academic Freedom, *Administrative Principles, *Faculty, Faculty Recruitment, *Higher Education, *Public School Systems, Teacher Responsibility, *Teacher Welfare, Tenure

The statement provides guiding principles designed to help Texas colleges and universities in evaluating the conditions of academic freedom, tenure, and responsibility that prevail on each campus. It suggests that faculty members should be free to pursue scholarly inquiry, and to voice and publish conclusions without institutional restriction or discipline. Academic responsibility should be shared by faculty, administrators and governing boards, but faculty members in particular should strive for professional integrity, competence in their fields of specialization, and judiciousness in the use of controversial material related to their subject fields. The document also discusses tenure policy, and covers the continuation of faculty members' positions, written terms of employment, the phasing out of institutional programs requiring reduction of faculty, and professional procedures for dismissing a tenured faculty member or one whose term contract is unexpired. Standards are recommended in the area of faculty recruitment for adoption by administrators, and in the area of responsible resignation procedures that should be followed by faculty members. The statement was adopted in public higher educational institutions in Texas on October 16, 1967. (WM)



- Academic Freedom,
- Tenure, and
- Responsibility

for Faculty Members in Texas Public Colleges and Universities

Adopted: October 16, 1967

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL OFFICE OF EDUCATION POSITION OR POLICY.

• Academic Freedom,

• Tenure, and

• Responsibility

for Faculty Members in Texas Public Colleges and Universities

Adopted: October 16, 1967

THE COORDINATING BOARD, TEXAS COLLEGE AND UNIVERSITY SYSTEM
Austin, Texas March, 1968

ACADEMIC FREEDOM, TENURE, AND RESPONSIBILITY FOR FACULTY MEMBERS IN TEXAS PUBLIC COLLEGES AND UNIVERSITIES

The statement which follows, issued in response to Section 14, Paragraph 2, of House Bill 1, 59th Texas Legislature, provides guiding principles designed to aid Texas colleges and universities in evaluating the conditions of academic freedom, tenure, and responsibility that prevail on each campus.

I

Academic Freedom

Institutions of higher education are conducted for the common good. The common good depends upon a free search for truth and its free expression. Hence, it is essential that the faculty member be free to pursue scholarly inquiry without undue restriction, and to voice and publish his conclusions concerning the significance of evidence that he considers relevant. He must be free from the corrosive fear that others, inside or outside the university community, because their vision may differ from his own, may threaten his professional career or the material benefits accruing from it.

Each faculty member is entitled to full freedom in the classroom in discussing the subject which he teaches. Each faculty member is also a citizen of his nation, state and community; and when he speaks, writes or acts as such, must be free from institutional censorship or discipline.

II

Academic Responsibility

The concept of academic freedom must be accompanied by an equally demanding concept of responsibility, shared by governing boards, administrators, and faculty members.

The essential responsibilities of governing boards and administrators are set forth in the *Standards for Colleges,* adopted by the Southern Association of Colleges and Schools, as updated and revised.

The fundamental responsibilities of a faculty member as a teacher and scholar include a maintenance of competence in his field of specialization and the exhibition of such compentence in lectures, discussions or publications.

Exercise of professional integrity by a faculty member includes recognition that the public will judge his profession and his institution by his statements. Therefore, he should strive to be accurate, to exercise appropriate restraint, to show respect for the opinions of others, and to avoid creating the impression that he speaks or acts for his college or university when he speaks or acts as a private person.

A faculty member should be judicious in the use of controversial material in the classroom and should introduce such material only as it has clear relationship to his subject field.

A faculty member has the responsibility to provide due notice of his intention to interrupt or terminate institutional services.

III

Tenure Policy

A. *Tenure*

Tenure means assurance to an experienced faculty member that he may expect to continue in his academic position unless adequate cause for dismissal is demonstrated in a fair hearing, following established procedures of due process.

A specific system of faculty tenure undergirds the integrity of each academic institution. In the Texas public colleges and universities, this tenure system should have these components:

(1) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period for a faculty member shall not exceed seven years, including within this period appropriate full-time service in all institutions of higher education. This is subject to the provision that when, after a term of probationary service of more than three years in one or more institutions, a faculty member is employed by another institution, it may be agreed in writing that his new appointment is for a probationary period of not more than four years (even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years).

(2) Notice of nonreappointment, or of intention not to reappoint a faculty member, should be given in writing in accord with the following standards: (a) Not later than March 1 of the first academic year of probationary service, if the appointment expires at the end of that year; or, if a one-year appointment terminates during an academic year, at least three months in advance of its termination; (b) not later than December 15 of the second year of probationary service, if the appointment expires at the end of that year; or, if an initial two-year appointment terminates during an academic year, at least six months in advance of its termination; (c) at least twelve months before the expiration of a probationary appointment after two or more years in the institution.

(3) Adequate cause for dismissal for a faculty member with tenure may be established by demonstrating professional incompetence, moral turpitude, or gross neglect of professional responsibilities.

Cases of *bona fide* financial emergency, or the phasing out of institutional programs requiring reduction of faculty, may permit exceptions of tenure regulations in unusual circumstances.

B. *Faculty Dismissals*

Proper dismissal procedures, established in anticipation of their being needed, are essential to an effective tenure system. In the Texas public college and university system, these procedures should have the following components:

(1) These dismissal procedures apply to a faculty member who has tenure, or whose term appointment has not expired, or who alleges a *prima facie* case of a violation of academic freedom in the non-renewal of his contract. If he *has* tenure or an unexpired appointment extending beyond the period of the proposed dismissal, the burden of proof is upon the administration to show adequate cause why he should be dismissed. If he does *not* have tenure, but contends that the non-renewal of his contract constitutes a violation of his academic freedom, the burden of proof is upon the faculty member. If a faculty member on probationary appointment alleges that the non-renewal of his contract constitutes a violation of academic freedom, he may request that his allegations be given preliminary consideration by a faculty committee. The committee shall then recommend whether a hearing is warranted.

(2) The institution's procedure in dismissal cases described in (1) above should include, first, a *bona fide* effort to achieve a satisfactory resolution of difficulties through preliminary inquiry, discussion, or confidential mediation.

Should these efforts fail, presentation of reasonably detailed and formally written charges should be made to the concerned faculty member. Presentation of such charges shall provide for (a) a written response to the charges by the faculty member, if he wishes a hearing; (b) opportunity by the faculty member to exercise his right to be represented by counsel of his choosing, to have a hearing before a regular elected faculty committee, to confront and cross-examine witnesses, to know the name and statement of a witness who for extraordinary reasons does not appear at the hearing, to respond orally to charges made against him, to have findings and recommendation made on each of the charges, and to be given a complete transcript of the hearing, including the findings of the faculty committee; (c) a review of the case, if essential, by an appropriate reviewing body—the review to include the findings and recommendations of the hearing committee, the opportunity of the faculty member and university representative for oral argument, the return of the proceeding to the hearing committee if the original recommendations are not sustained, the study of the hearing committee's reconsidered findings and recommendations, and the rendering of a final decision (which should be written in the rare case in which the hearing committee is overruled).

(3) If the faculty appointment is to be terminated, the faculty member, except in cases of moral turpitude, will receive his salary at least for one year or for the period of notice to which he is entitled under these regulations. He will be continued in his duties for that period unless at the discretion of the institution he be granted a leave of absence with pay.

IV

Implementation

Within one year, and with appropriate faculty participation, each public institution in Texas is expected to draft its own written statement on academic freedom, tenure, and responsibilities. The statement should be based on the guiding principles described in the preceding paragraphs, and a copy should be filed with the Coordinating Board, Texas College and University System. Each statement should detail a procedure to be followed in case of dismissal of a tenured faculty member.

APPENDIX I

Written Terms of Employment

The institution shall provide each faculty member with a statement in writing of the terms of his employment, including special conditions, responsibilities and any special prerequisites. The document should cover such items as rank, salary, tenure provisions, whether the position is full-time or part-time, and the inclusive dates of the term of service.

APPENDIX II

Tenure, Financial Exigency, and Phasing Out Of Programs

Cases of *bona fide* financial exigency, or the phasing out of institutional programs requiring reduction of faculty, may permit exceptions to tenure regulations in unusual circumstances.

(1) Faculty members involved in such adjustments in emergency situations should be given opportunities for appointment in related areas provided (a) they are qualified professionally to teach in such areas, and (b) such positions are available.

(2) Faculty members who can present *prima facie* evidence of discriminatory treatment or infringement of academic freedom in such emergencies have the right to a fair hearing before an elected faculty committee.

(3) Any faculty member involved in such a readjustment process has the right to reappointment to his previous position if it is re-established within two calendar years.

APPENDIX III

Due Process Proceedings In Dismissal Cases and Cases Where Academic Freedom Infringement Is Alleged

Due process as set forth in this statement embodies a course of professional proceedings in line with stated rules and principles generally recognized in the academic community. Due process carries with it the right of a tenured faculty member or a teacher with an unexpired term contract to a fair hearing before an elected committee of his peers. The procedure which follows illustrates how the principles of due process can be adapted to individual institutions.

a. *Personal Conference.* When reason arises to question the fitness of a faculty member, the appropriate administrative officers should discuss the matter with him in personal conference. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, the matter should be taken up by an advisory committee.

b. *Advisory Committee.* The advisory committee should be a standing committee elected by the faculty or an appropriate organized faculty organization, appointed by the President of the Faculty Senate or other elected faculty representative body, or appointed by the chief executive officer of the institution from a faculty elected panel. The committee's proceedings may be informal and flexible. It should make such inquiry as it deems necessary, offer confidential advice to the faculty member and the administration, and attempt to effect an adjustment. If none is effected, the advisory committee or the chief executive officer may recommend a hearing. If a hearing is to be held, the chief executive officer should formulate a statement of the grounds for dismissal, giving due regard to the advisory committee's report. These grounds should be reasonably detailed.

c. *Hearing Committee.* The hearing committee should be an elected standing committee, or a standing or *ad hoc* committee appointed as noted in the paragraph above, not overlapping in membership with the advisory committee. The hearing committee should include only teaching faculty members of tenure status, and each member should be subject to challenge for cause.

If a hearing is recommended, the chief executive officer should send a letter to the faculty member informing him of the grounds for dismissal proceedings, and informing him that, should he so request, a hearing to determine whether he should be removed from his faculty position will be conducted by the hearing committee at a specified time and place. The chief executive officer's letter should inform the faculty member of the procedural rights which will be accorded to him in the hearing. These should include an adviser of his own choosing to act as counsel; a full stenographic record of the proceedings, a transcript of which is to be made available to him and to the President; the right to question witnesses; the opportunity to be confronted by all witnesses adverse to him; and, if a witness cannot appear, the right to the name and statement of the witness.

If the faculty member desires a hearing, he should write to the institution's chief executive officer within a reasonable period, in response to the statements given as grounds for his dismissal.

Suspension of the faculty member from his usual duties during the proceedings involving him is justified only if his welfare or that of the institution or its students is threatened by his continuance. Any such suspension should be with pay and with appropriate provisions for useful duties whenever possible.

In deliberating, the committee should allow oral arguments or written briefs by the chief executive officer or his representative, and by the faculty member or his representative. The committee should make explicit findings with respect to each of the grounds of removal presented and should recommend whether there is adequate cause for dismissal. The committee's recommendation should be conveyed in writing to the chief executive officer and to the faculty member.

Governing Board. If the faculty member's appointment is proposed to be terminated, the chief executive officer should transmit the full report of the hearing committee to the institution's Governing Board. If the Governing

Board chooses to review the case, its review should be based on the record of the previous hearing, accompanied by opportunity for argument by the principals or their representatives. The decision of the hearing committee should either be sustained or the proceedings be returned to the chief executive officer and to the committee with objections specified. In such case, the committee should reconsider, taking account of the stated objections and receiving new evidence if necessary. It should frame its reconsidered recommendation and communicate it in the same manner as before. Only after study of the committee's reconsideration should the Governing Board render a written decision overruling the committee.

Publicity. The proceedings of the hearing committee should be confined to the principals, their advisers, the witnesses called by the committee, and such observers as the committee may specifically invite. Except for such brief announcements as may be required, covering the time of the hearing and related matters, public statements about the case by either the faculty member or administrative officers should be avoided so far as possible until the proceedings have been completed. Announcement of a final decision should include a statement of the hearing committee's original action, if this has not previously been made known.

APPENDIX IV

Recruitment and Resignation Of Faculty Members

Sound procedures regarding the recruitment and resignation of faculty members are essential for the proper functioning of colleges and universities. The following nationally recognized statement is recommended for both administrations and faculty members in Texas State colleges and universities.

* * *

Mobility of faculty members among colleges and universities is rightly recognized as desirable in American higher education. Yet the departure of a faculty member always requires changes within his institution, and may entail major adjustments on the part of his colleagues, the administration, and students in his field. Ordinarily a temporary or permanent successor must be found and appointed to either his position or the position of a colleague who is promoted to replace him.

In a period of expansion of higher education, such as that already existing and promising to be even more intensified as a pattern for the coming years, adjustments are required more frequently as the number of positions and of transfers among institutions increases. These become more difficult than at other times, especially in the higher academic ranks. Clear standards of practice in the recruitment and in the resignations of members of existing faculties should contribute to an orderly interchange of personnel that will be in the interest of all.

The standards set forth below are recommended to administrations and faculties, in the belief that they are sound and should be generally followed. They are predicated on the assumption that proper provision has been made by employing institutions for timely notice to probationary faculty members and those on term appointments, with respect to their subsequent status. In addition to observing applicable requirements for notice of termination to probationary faculty members, institutions should make provision for notice to all faculty members not later than March 15 of each year of their status the following fall, including rank and (unless unavoidable budget procedures beyond the institution forbid) prospective salary.

1. Negotiations looking to the possible appointment for the following fall of persons who are already faculty members of other institutions, in active service or on leave-of-absence and not on terminal appointment, should be begun and completed as early as possible in the academic year. It is desirable that, when feasible, the faculty member who has been approached with regard to another position inform the appropriate officers of his institution when such negotiations are in progress. The conclusion of a binding agreement for the faculty member to accept an appointment elsewhere should always be followed by prompt notice to his institution.

2. A faculty member should not resign in order to accept other employment as of the end of the academic year, later than May 15 or 30 days after receiving notification of the terms of his continued employment the following year, whichever date occurs later. It is recognized, however, that this obligation will be in effect only if institutions generally observe the time factor set forth in the following paragraph for new offers. It is also recognized that emergencies will occur. In such an emergency the faculty member may ask the appropriate officials of his institution to waive this requirement; but he should conform to their decision.

3. To permit a faculty member to give due consideration and timely notice to his institution in the circumstances defined in paragraph 1 of these standards, an offer of appointment for the following fall at another institution should not be made after May 1. The offer should be a "firm" one, not subject to contingencies.

4. Institutions deprived of services of faculty members too late in the academic year to permit their replacement by securing the members of other faculties in conformity to these standards, and institutions otherwise prevented from taking timely action to recruit from other faculties,

should accept the necessity of making temporary arrangements or obtaining personnel from other sources, including new entrants to the academic profession and faculty personnel who have retired.

5. Except by agreement with his institution, a faculty member should not leave or be solicited to leave his position during an academic year for which he holds an appointment.

[1] The *Statement on Recruitment and Resignation of Faculty Members,* reprinted here, was adopted by the Association of American Colleges in January, 1961, with the following reservations as set forth in a preamble prepared by that Association's Commission on Academic Freedom and Tenure:

(1) No set of principles adopted by the Association can do more than *suggest* and *recommend* a course of action. Consequently, the present statement in no way interferes with institutional sovereignty.

(2) The Commission realizes that the diversity of practice and control that exists among institutions of higher learning precludes any set of standards from being *universally* applicable to every situation.

(3) The statement is concerned only with *minimum* standards and in no way seeks to create a norm for institutions at which "better" practices already are in force.

(4) The Commission recognizes the fact that "emergency" situations will arise and will have to be dealt with. However, it urges both administration and faculty to do so in ways that will not go counter to the spirit of cooperation, good faith and responsibility that the statement is seeking to promote.

(5) The Commission believes that the Spirit embodied in the proposed statement is its most important aspect.